

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

February 9, 2005

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor

THRU: Pricilla Burton, Environmental Specialist III, Lead

FROM: Jerriann Ernstsens, Ph.D., Environmental Specialist, Biologist

RE: MRP Rewrite Wildcat Loadout, Andalex Resources, Inc., C/007/0033, Task ID #2089

SUMMARY

The Division received a second submittal of an amendment for reformatting the MRP on December 10, 2004. This memo describes the editorial review of the biology and cultural sections. The Division conducted a minor technical review on newly submitted material during the first review (task #1911).

The Division decided, at a meeting on 1/25/05, to readdress deficiencies related to only to the reformatting of the MRP. The Division will postpone readdressing deficiencies related to technical matters during the review of a proposed amendment (March 2005) that will add approximately 12 acres to the disturbance area. The Division will readdress earlier deficiencies from the technical review of a one-acre expansion (DOGM, TA, July 8, 2003). The Permittee withdrew the related amendment.

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

PERMIT APPLICATION FORMAT AND CONTENTS

Regulatory Reference: 30 CFR 777.11; R645-301-120.

Analysis:

The newly formatted MRP refers many of the sections from 301-311 through 301-322, 301-232, and 301-322 through 301-358 to appendices or sections 301-310 and 301-240 or assigns the sections as “not applicable. Consequently, there are issues with the new format that include referenced material in sections unrelated to the regulation, referenced material is missing from sections/appendices, and reference material is incorrectly labeled as not applicable (NA). The Permittee must address these formatting issues to present the narrative more clearly (R645-301-121.200). The following list provides some of the areas to address:

- Update the correct number of plates.
- Reference the NRCS letter concerning productivity that is in the back of Chap. 3 in the Table of Contents for Chap. 3.
- Remove the reference to Appendix I (Sec. 310-321-200), which does not provide productivity values.
- Relocate information in the Fish and Wildlife Plan to a more appropriate section in Operations.
- Provide missing information or remove the reference to Fish and Wildlife Source Data information (Chap. 3, p. 3.4).
- Provide missing discussion in section 301-240 on how reclamation will enhance wildlife resources or remove the reference to 301-240 (Sec. 301-313), which does not address regulation 301-313.
- Provide the missing document or remove the reference to Appendix B (Sec. 301-322.300), which does not provide correspondence with the USFWS. Appendix B provides many correspondences, but not from USFWS.
- Relocate information concerning pest management in section 301-310 and 301-331 to the appropriate section in 301-357 series.
- Include pertinent information in sections 301-356 through 301-358. Referencing the reader for every regulation does not provide a clear and concise plan. The Permittee may want to copy some of the information from other chapters that follow the same regulation. However, the Permittee may want to relocate many paragraphs that are in

- sections where this referenced information is under the inappropriate section. For example,
- Relocate or include pertinent information concerning success standards (e.g., 301-331) to the appropriate section in the 301-356 series. The information is in the MRP, it's just under inappropriate regulations.
 - Address that 301-240 and 301-331 do not directly discuss 301-356.120, 301-356.200, and 301-356.210. Additionally, 301-240 does not directly discuss the following:
 - 301-356.230 series.
 - 301-357.311 and 301-357.312.
 - 301-357.340 series.
 - 301-357.360 series.
 - Briefly, specify why husbandry practices and bonding are not applicable for this application (301-357.300 through 301-357.310).
 - Include the map/aerial photo in Appendix F that 301-232 references.

The following list is issues that concern both clarity and technical matters. During the next technical review, the Permittee must address the following:

Direct quotes from the Utah Coal Regulations do not substitute for addressing the following sections. Provide brief reasons how the Permittee plans to address related requirements (such as provided for 301-354).

- 301-353.120: Exactly where are non-natives necessary?
- 301-353.130: Which area - the reference area?
- 301-353.140: The rates must be in plants per square foot to determine adequate stabilization. Modify the units for final see mix table.
- 301-353.210: Species Y are great for the proposed PMLU of...
- 301-353.220: Are some cool and warm season species?
- 301-353.240: Some of the selected species may not be compatible e.g., alfalfa or sweetclover (see Reclamation section for direction).
- 301-353.250: Fax seed tag to the Division.

Findings:

Information provided in the plan does not meet the minimum Permit Application Format and Contents in General Contents requirements of the regulations. Prior to approval, the Permittee must act in accordance with the following:

R645-301-121.200, Address these formatting issues that relate to biological and cultural disciplines to present the narrative more clearly

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REPORTING OF TECHNICAL DATA

Regulatory Reference: 30 CFR 777.13; R645-301-130.

Analysis:

The contents in the technical reports are the same and still in the folder of the old MRP appendix section. The Division suggests providing a copy of these appendices in the new MRP folder for ease of reading.

There are mislocated confidential documents in certain Wildcat Loadout volumes. During the next technical review, the Permittee will have attended to these documents as a response to the Division's request dated December 8, 2004. Copies of the correspondence letters (Appendix B) with SHPO should accompany these documents.

Findings:

Information provided in the plan meets the minimum Reporting of Technical Data in General Contents requirements of the regulations.

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

All content concerning Historic and Archeological Resources is the same in the newly formatted version.

Findings:

Information provided in the plan meets the minimum Environmental - Historic and Archeological Resource Information requirements of the regulations.

VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

Analysis:

All content concerning Vegetation Resources is the same in the newly formatted version.

Findings:

Information provided in the plan meets the minimum Environmental - Vegetation Resource Information requirements of the regulations.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

All content concerning Fish and Wildlife Resources is the same in the newly formatted version.

The MRP does not include correspondence documents to USFWS concerning TES species. During the next technical review, the Permittee must address this requirement in section 322.300. Furthermore, the Permittee must address the deficiencies in the TA dated July 8, 2003 related to TES species. Although the Permittee withdrew the related amendment, the deficiencies are still an issue.

Findings:

Information provided in the plan meets the minimum Environmental - Fish and Wildlife Resource Information requirements of the regulations.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

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Analysis:

Biological and cultural maps are the same and still in the folder of the old MRP appendix section or the folder with Plates.

Findings:

Information provided in the plan meets the minimum Environmental - Maps, Plans, and Cross Section Resource Information requirements of the regulations.

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Protection and Enhancement Plan

All content concerning Fish and Wildlife Information is the same in the newly formatted version.

One of the largest problems that Wildcat faces, is the build up of coal fines off the permit boundary. The Permittee must address this issue in the near future.

The Permittee references Appendix E for the discussion on wildlife nutrition. This document loosely discusses how reclamation measures addresses the nutritional requirements of wildlife. During the next technical review, the Permittee must address this requirement in the appropriate section in 301-342 series. The Division recommends avoiding using any of the existing appendices as a reference.

Endangered and Threatened Species

Adverse results of mining on water quantity to the Colorado River drainages affects four Colorado River endangered fish species (Colorado pikeminnow [squawfish], humpback chub, bonytail chub, and razorback sucker). The USFWS considers depletions or significant changes to contributions to the Colorado River drainage as a potential jeopardy to these endangered fish. Water users may have to mitigate if there are considerable changes to contributions or if water

consumption is greater than 100 acre-feet per year. Currently, the mitigation fee is approximately 16.00 per acre-foot of depletion, but may change marginally from year to year.

The Permittee provides water consumption values. During the next technical review, however, the Permittee must provide all equations and justifications with supporting documentation leading to the overall sum of water depletions or additions for all operations including dust control in the MRP section R645-301-333. The Permittee may use the following paper as a guideline "Windy Gap Process As It Applies To Existing Coal Mines In The Upper Colorado River Basin". In brief, consider the following water-using operations:

- Mining consumption
- Ventilation consumption
- Coal producing consumption
- Ventilation evaporation
- Sediment pond evaporation
- Springs and seep effects from subsidence
- Alluvial aquifer abstractions into mines
- Alluvial well pumpage
- Deep aquifer pumpage
- Postmining inflow to workings
- Coal moisture loss
- Direct diversions
- Dust suppression (not mentioned in Windy Gap).

Findings:

Information provided in the plan meets the minimum Operations - Fish and Wildlife Information requirements of the regulations.

VEGETATION

Regulatory Reference: R645-301-330, -301-331, -301-332.

Analysis:

All content concerning Vegetation is the same in the newly formatted version.

During the next technical review, the Permittee must address questions concerning the substitution of topsoil with fill material.

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Findings:

Information provided in the plan does not meet the minimum Operations - Vegetation requirements of the regulations.

RECLAMATION PLAN

GENERAL REQUIREMENTS

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

Analysis:

All content concerning General Requirements is the same in the newly formatted version, except the change in the seed mix.

Findings:

Information provided in the plan meets the minimum Reclamation - General Requirements of the regulations.

RECOMMENDATIONS:

Do not approve the MRP until all deficiencies have been addressed.